

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**KELLIE C. KUCERA, CHARLES  
KUCERA, individually and as parent  
and natural guardian of KELLIE C.  
KUCERA,**

Plaintiffs,

v.

**SOUTH ALLEGHENY SCHOOL  
DISTRICT; LIBERTY BOROUGH,  
PENNSYLVANIA; LUKE RILEY,  
Police Chief of Liberty Borough,  
Pennsylvania and President of South  
Allegheny School Board in his  
individual capacity; NICK CAITO,  
in his individual capacity; and JAY  
LEGIN, in his individual capacity,**

Defendants.

**2:08cv810  
Electronic Filing**

**MEMORANDUM ORDER**

AND NOW, this 28<sup>th</sup> day of July, 2008, upon due consideration of plaintiff's motion to remand and defendants' response in opposition thereto, IT IS ORDERED that the Clerk of Court remand this action to the Court of Common Pleas of Allegheny County forthwith.

As Judge Squatrito recently observed in Edelman v. Page, 535 F. Supp.2d 290, Judge Pollock's 1978 opinion in Sicinski v. Reliance Funding Corp., 461 F. Supp. 1143 (S.D. N.Y. 1978) "has been called into question by a number of courts" and its approach "is contrary to the overwhelming weight of authority requiring that each defendant independently notify the court of its consent" to removal within the thirty day period. Edelman, 535 F.3d 294 (quoting Sansone v. Morton Mach. Works, Inc., 188 F. Supp.2d 182, 185 (D.R.I. 2002)). Furthermore, defendants' reliance on the wherefore clause is misplaced because that clause is insufficient to establish that each defendant had specifically joined in and consented to the removal. Compare Edelman, 295 n. 2 (noting that the majority approach holds that each defendant must inform the court of its consent to removal prior to the expiration of the thirty day period). There being no sound basis for exempting defendants from the rule of unanimity, the entry of an order of

remand is appropriate.

s/ David Stewart Cercone  
David Stewart Cercone  
United States District Judge

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